



CITY OF HOUSTON INVITATION TO BID

Issued: February 17, 2012

BID OPENING

Sealed bids, in duplicate, will be received by the City Secretary of the City of Houston, in the City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002, until **10:30 a.m., Thursday, March 15, 2012** and all bids will be opened and publicly read in the City Council Chamber, City Hall Annex, Public Level, 900 Bagby at 11:00 AM on that date for the purchase of:

**MEDICAL WASTE REMOVAL AND DISPOSAL SERVICES
FOR VARIOUS DEPARTMENTS
BID INVITATION NO.: S37-L23970
NIGP CODE: 925-45; 968-71**

BUYER

Questions regarding this solicitation document should be addressed to **Joyce Hays** at **832.393.8723**, or e-mail to **joyce.hays@houstontx.gov**.

ELECTRONIC BIDDING

In order to submit a bid for the items associated with this procurement, vendor must fill in the pricing information on the **"PLACE BID"** page.

PRE-BID CONFERENCE

A Pre-Bid Conference will be held for all Prospective Bidders at 901 Bagby Houston, Texas 77002 City Hall Tunnel Level (Basement) SPD Conference Room-2 at **9:00 a.m. on February 24, 2012**.

All Prospective Bidders are urged to be present. It is the Bidder's responsibility to ensure that they have secured and thoroughly reviewed the solicitation documents prior to the Pre-Bid Conference. Any revisions to be incorporated into this solicitation document arising from discussions before, during and subsequent to the Pre-Bid Conference will be confirmed in writing by Letter(s) of Clarification prior to the bid due date. Verbal responses will not otherwise alter the specifications, and terms and conditions as stated herein.

Bidding forms, specifications, and all necessary information should be downloaded from the Internet at **<http://purchasing.houstontx.gov/index.shtml>**. By registering and downloading this solicitation document, all updates to this solicitation document will be automatically forwarded via e-mail to all registered Bidders. This information may also be obtained from the Supplier Assistance Desk, Strategic Purchasing Division, 901 Bagby (Concourse Level), Houston, Texas 77002.

The place of the bid opening may be transferred in accordance with Paragraph (b), (5) of Section 15-3 of The Code of Ordinances, Houston, Texas. The bid opening meeting may be rescheduled in accordance with Paragraph (b), (6) of said Section 15-3.

The City reserves the right to reject any or all bids or to accept any bid or combination of bids deemed advantageous to it.

City Employees are prohibited from bidding on this solicitation in accordance with the Code of Ordinances, Section 15-1.

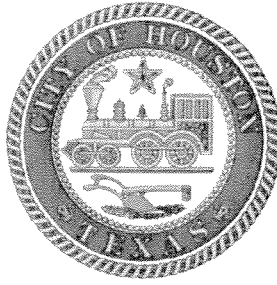
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***NOTE 1: Actual page numbers for each Section may change when the solicitation document is downloaded from the Internet or because of Letters of Clarification. Therefore, Bidders must read the bid document in its entirety and comply with all the requirements set forth therein.**

***NOTE 2: To be considered for award, please submit the electronic bid form and the forms listed in Section A, including the Official Signature Page, which must be signed by a company official authorized to bind the company.**

SECTION A



**MEDICAL WASTE REMOVAL AND DISPOSAL SERVICES
FOR VARIOUS DEPARTMENTS
BID INVITATION NO.: S37-L23970
NIGP CODE: 925-45; 968-71**

To The Honorable Mayor
and Members of the City Council
of the City of Houston (the "City"), Texas:

The undersigned Bidder hereby offers to contract with the City upon the terms and conditions stated in that certain **Contract for Medical Waste Removal And Disposal Services For Various Departments for a five year period**, which was distributed by the City together with the "Notice to Bidders" and is hereby incorporated herein by this reference (the "Contract"). This offer is made at the prices stated on the electronic bid form. When issued by the City of Houston, Letters of Clarification shall automatically become part of this bid document and shall supersede any previous specifications or provisions in conflict with the Letters of Clarification. It is the responsibility of the Bidder to ensure that it has obtained all such letters. By submitting a bid on this project, Bidder shall be deemed to have received all Letters of Clarification and to have incorporated them into its bid.

The City may accept this bid offer by issuance of a contract covering award of said bid to this Bidder at any time on or before the 180th day following the day this Official Bid Form is opened by the City. This offer shall be irrevocable for 180 days, but shall expire on the 181st day unless the parties mutually agree to an extension of time in writing.

The City of Houston reserves the option, after bids are opened, to increase or decrease the quantities listed, subject to the availability of funds, and/or make award by line item.

If the City accepts the foregoing offer, this Bidder promises to deliver to the City Purchasing Agent of the City, five (5) original counterparts of said contract duly executed by this Bidder (as "Contractor") in accordance with this paragraph, proof of insurance as outlined in Article II of the contract, all on or before the tenth (10th) day following the day this Bidder receives from the City the unsigned counterparts shall be executed so as to make it binding upon the Bidder, and all of the applicable requirements stated in the document entitled "Instructions for Execution of Contract Documents," (which was distributed by the City) shall be complied with.

The City reserves the right to accept or reject, in whole or in part, any or all bids received and to make award on the basis of individual items or combination of items, as it is deemed in the best interest of the City.

If the City accepts the foregoing offer, this Bidder shall furnish all labor, supervision, materials, supplies, equipment and tools necessary to provide **Medical Waste Removal and Disposal Services** for the City in accordance with attached specifications.

Documents/forms must be downloaded from the City's Website at <http://purchasing.houstontx.gov/index.shtml>

Additional Required Forms to be included with this Bid:

In addition to the Electronic Bid Form and the Official Signature Page, the Forms listed in Table 1 **must be completed and submitted to the Office of the City Secretary on or before the date and time the bid is due.** When submitting bids via UPS/FedEx, etc. please label it with the name: Office of the City Secretary, City Hall Annex, Public Level, 900 Bagby, Houston, Texas 77002, along with the bid/proposal number:

TABLE 1 - REQUIRED FORMS
Affidavit of Ownership.doc
Fair Campaign Ordinance.doc
Statement of Residency.doc
Conflict of Interest Questionnaire.doc
Pay or Play Program Acknowledgement Form
Pay or Play Certification of Agreement to Comply w' the Program
Contractor's Questionnaire
Proof of Current TCEQ Transporter Registration

Table 2 lists other documents and forms that should be viewed/downloaded from the City's website, but are not required to be submitted with the bid. The City will request these forms, as applicable, to be completed and submitted to the City by the recommended/successful bidder:

TABLE 2 - DOCUMENTS & FORMS
Drug Forms.doc
EEOC.doc
Formal Instructions for Bid Terms.doc
M/WBE.doc
Sample Insurance Over \$50,000.pdf
Pay or Play Office of Business Opportunity & Contract Compliance Q & A
Pay or Play Office of Business Opportunity & Contract Compliance Requirements
Pay or Play Contractor/Subcontractor Payment Reporting Form
Pay or Play Contractor/Subcontractor Waiver Request
Pay or Play List of Participating Subcontractors

Questions concerning the bid should be submitted in writing to: City of Houston, Strategic Purchasing Division, 901 Bagby, Room B-500, Houston, TX 77002, Attn: Joyce Hays (or) by fax: 832.393.8759 or by e-mail (preferred method) to **joyce.hays@houstontx.gov**. no later than **1:00 p.m., Wednesday, February 29, 2012.**

CONTRACTOR'S QUESTIONNAIRE

In order to receive bid award consideration, the Bidder must be able to demonstrate that they are currently providing or have had at least one Contract, as a prime Contractor, for **MEDICAL WASTE REMOVAL AND DISPOSAL SERVICES FOR VARIOUS DEPARTMENTS** that is similar in size and scope to this Contract. **Bidder must have references documenting that it has performed MEDICAL WASTE REMOVAL AND DISPOSAL SERVICES FOR VARIOUS DEPARTMENTS.** The reference(s) should be included in the space provided below. Please attach another piece of paper if necessary. **Bidder's capability and experience shall be a factor in determining the Contractor's responsibility.**

1. Name: _____
Address: _____
City & State: _____
Name & Phone Number of Contact: _____ Years of Services: _____
2. Name: _____
Address: _____
City & State: _____
Name & Phone Number of Contact: _____ Years of Services: _____
3. Name: _____
Address: _____
City & State: _____
Name & Phone Number of Contact: _____ Years of Services: _____

SITE INSPECTION

The City of Houston reserves the right to inspect the Bidder's current place of business to evaluate equipment condition and capabilities, staff experience, training and capabilities, and storage capabilities as they relate to the performance of this contract.

QUALITY AND WORKMANSHIP

The Bidder must be able to demonstrate upon request that it has satisfactorily performed services similar to the services specified herein. The Bidder will provide records of warranty and repair services upon request by City. The City of Houston shall be the sole judge as to whether the services performed are similar to the scope of services contained herein and whether the Bidder is capable of performing such services.

HIRE HOUSTON FIRST

Designation as a City Business or Local Business

To be designated as a City or Local Business for the purposes of the Hire Houston First Program, as set out in Article XI of Chapter 15 of the Houston City Code, a bidder or proposer must submit the **Hire Houston First Application and Affidavit ("HHF Affidavit")** to the Director of the Mayor's Office of Business Opportunities and receive notice that the submission has been approved prior to award of a contract. Bidders are encouraged to secure a designation prior to submission of a bid or proposal if at all possible.

Download the HHF Affidavit from the Office of Business Opportunities Webpage at the City of Houston e-Government Website at the following location:

www.houstontx.gov/obo/moreforms/hirehoustonfirstaffidavit.pdf

Submit the completed application forms to: Mayor's Office of Business Opportunity, One Stop Business Center, 900 Bagby St., Public Level, Houston, TX 77002 or Applications may be submitted via e-mail to HHF-MOBO@houstontx.gov or faxed to 832.393.0952.

Award of a Procurement of \$100,000 or More for Purchase of Goods:

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE CITY BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 3% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A CITY BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER.

Award of Procurement under \$100,000 for Purchase of Goods:

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE CITY BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 5% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A CITY BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

Award of Procurement that may be More or Less than \$100,000 for Purchase of Goods:

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE CITY BUSINESS IS LESS THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 5% OF THE LOWEST BID RECEIVED, OR
- IF THE BID OF THE CITY BUSINESS IS MORE THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 3% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A CITY BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER.

Award of Procurement of \$100,000 or More for Purchase of Non-Professional Services , Including Construction Services:

THE CITY WILL AWARD THIS PROCUREMENT TO A "CITY BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE LOCAL BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 3% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A LOCAL BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

Award of Procurement under \$100,000 Purchase of Non-Professional Services Including Construction Services:

THE CITY WILL AWARD THIS PROCUREMENT TO A "LOCAL BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES

- IF THE BID OF THE CITY BUSINESS IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 5% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A LOCAL BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

Award of Procurement that may be More or Less than \$100,000 for Purchase of Non-Professional Services, Including Construction Services:

THE CITY WILL AWARD THIS PROCUREMENT TO A "LOCAL BUSINESS," AS THAT TERM IS DEFINED IN SECTION 15-176 OF THE CITY OF HOUSTON CODE OF ORDINANCES ("THE CODE")

- IF THE BID OF THE LOCAL BUSINESS IS LESS THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 5% OF THE LOWEST BID RECEIVED, OR
- IF THE BID OF THE LOCAL BUSINESS IS MORE THAN \$100,000 AND IS THE LOWEST RESPONSIBLE BID OR IS WITHIN 3% OF THE LOWEST BID RECEIVED, AND
- UNLESS THE USER DEPARTMENT DETERMINES THAT SUCH AN AWARD WOULD UNDULY INTERFERE WITH CONTRACT NEEDS, AS PROVIDED IN SECTION 15-181 OF THE CODE.

IF THERE IS NO BID OF A LOCAL BUSINESS THAT MEETS THESE CRITERIA, THE CITY WILL AWARD THE PROCUREMENT TO THE LOWEST RESPONSIBLE BIDDER

SECTION B
SCOPE OF WORK/SPECIFICATIONS

1.0 COVERED SERVICES:

- 1.1 The City of Houston (COH) generates medical waste including, but not limited to, the following:
 - 1.1.1 Blood-soaked bandages
 - 1.1.2 Discarded surgical gloves
 - 1.1.3 Discarded needles used to give shots or draw blood (e.g. medical sharps)
 - 1.1.4 Discarded lancets
- 1.2 The Contractor shall be a reputable firm, engaged in the scope of services covered by these specifications.
- 1.3 Each pick up made by the Contractor shall be by personnel who have expertise in the handling, packaging, transportation and disposal of medical waste materials. Medical waste materials will include, but are not limited to waste derived from the medical treatment of animals and humans, including gloves, blood tubes, endotracheal tubes, sharps, sharps containers and other biologically contaminated materials. All personnel involved with the handling of wastes shall be trained regarding proper waste handling techniques, use of safety equipment, and emergency spill procedures.
- 1.4 Contractor shall furnish and pay for all labor, permits, licenses, insurance, materials, tools, equipment, transportation, services and supervision required to provide the services described in this Section 1.0.
- 1.5 Contractor shall provide bar code box cards and bar code labels for use at each pick-up location. Contractor shall provide a complete tracking report that indicates the ultimate disposal of waste (i.e., incineration certificate). On a monthly basis, this report will list all box numbers, location of origin, box weight, and date of pickup and transfer within 30 calendar days of pickup at each City location.
- 1.6 Contractor shall provide documentation, which reflects the disposal method, date of disposal, location of disposal or any other pertinent information for all waste containers. This information shall be submitted to the department's accounts payable section for that location with the invoices on a monthly basis.
- 1.7 Contractor shall provide a copy of the special waste manifest or bill of lading, at no charge, for each shipment at the time of medical waste pick-up.
- 1.9 The Contractor shall provide all waste boxes, liners, sharps containers and related supplies, at no charge, to properly dispose of Medical waste. The Contractor shall provide the number of corrugate boxes needed at each facility, as assessed by the department coordinator for that location. All containers must meet federal, state, and local specifications for the material to be contained,
- 1.10 Waste will be removed from pick up sites within the City as indicated on the frequency schedule included in the bid package. See Exhibit BB: "Medical Waste Removal Sites".
- 1.11 Pickups other than those listed in Exhibit BB, and on an as needed basis, will be arranged by phone by the department coordinator and Contractor shall respond within five (5) days of department's request.
- 1.12 The Contractor shall provide any and all safety equipment (i.e.: respirators, protective clothing, fire extinguisher, and spill equipment) necessary for handling the Medical waste(s).
- 1.13 Employees of the Contractor shall wear appropriate personal protective clothing/equipment while handling the hazardous materials.
- 1.14 Contractor will complete the appropriate documents or forms required at no charge to meet or exceed the local, state and federal government entities rules and regulation prior to collect, segregate, and securely pack and ship all DEA and non-DEA controlled pharmaceutical wastes.

2.0 CONTRACTORS RESPONSIBILITIES:

- 2.1 Contractor shall perform all Covered Services for each requesting COH facilities for scheduled pick-ups or on an "open order" basis for pick-ups on request that are received from each COH facility pursuant to the requirements of this Agreement, and any specific instructions of the affected COH Facility.
- 2.2 Contractor and its employees shall perform all services in compliance with all local, state and federal requirements, including but not limited to, OSHA, CDC, NIOSH, TCEQ, TXDOT, TDSHS, EPA, and HIPPA regulations.
- 2.3 Licenses/Permits: The Contractor shall have obtained, prior to the contract award date, all necessary licenses, registrations, and permits from the City, County, and/or State of Texas, and will comply with applicable codes and standards of each governmental entity. Proof of current TCEQ transporter registration should be submitted with the bid package. Failure to submit copies of required licenses and registrations may deem the bid non-responsive.
- 2.4 Transportation and Disposal Facilities: The Contractor shall be responsible for both the transportation mode and the disposal facility. Transportation of wastes shall be provided with vehicles dedicated to waste shipments and equipped in accordance with DOT and TCEQ regulations. If for any reason the Contractor has its registrations, permits, or license(s) revoked and/or is prohibited from handling medical waste, the Contractor shall notify the General Services Division (713.308.3908) immediately in person or by phone, and in writing within forty-eight (48) hours of any such occurrence.
- 2.5 Disposal Facilities: Contractor shall submit a list of all sites and treatment facilities used to treat, store or dispose of medical waste material. The designated department coordinators shall be notified of any new sites thirty (30) days before the site is used. Disposal facilities shall be registered to treat and permitted to dispose of medical waste by the TCEQ. All disposal facilities shall be free of any pending enforcement or compliance proceedings with the EPA or other local and/or State regulatory agencies.
- 2.6 Disposal Information: The Contractor shall provide written notification to the department coordinator thirty (30) calendar days prior to the implementation date of any Federal and State changes governing methods of packaging, description, or other pertinent disposal information with regards to medical waste material.
- 2.7 Return of the Medical Waste Manifest: The Contractor shall ensure that the completed original copy of the medical waste manifest, at no charge, showing receipt by the treatment and disposal facility is returned to the department designated by the department coordinator within 30 days of receipt by the treatment facility.
- 2.8 Documentation of Services Completed: Written certification and/or confirmation of disposal will be provided within sixty (60) calendar days of acceptance of waste, specifying the date, location and disposal method used. Documentation shall certify that disposal has been performed in full compliance with all applicable federal, state, and local laws, rules and regulations.
- 2.9 Notification of Change to Mandated Procedures: The Contractor shall provide the department coordinator with written notification, thirty (30) calendar days prior to the implementation date of any changes governing medical waste material and disposal of same.
- 2.10 Insurance Requirements: The Contractor shall be required to purchase and maintain, during the term of the contract, insurance as described in Section III. 5.0 of the Conformed Contract attached to the Invitation to Bid as well as Pollution insurance. Insurance shall meet TCEQ requirements for financial assurance for medical waste transporters.
- 2.11 The Contractor will provide any and all safety equipment (i.e.: respirators, protective clothing, fire extinguisher, and spill equipment) necessary for handling the medical waste(s).
- 2.12 Employees of the Contractor will wear appropriate personal protective clothing/equipment while handling the hazardous materials.

3.0 SUPPLIES:

- 3.1 The Contractor shall provide two types of medical waste containers for the collection, transportation and disposal of medical wastes. Each type of container must be identified with the City's name, Department, Collection Site Street Address, Telephone Number and State Registration Number. This identification data must be printed on a label affixed to the container or printed directly on the container, printed in indelible ink with lettering at least ½ inch in height.

3.1.1 MEDICAL WASTE CONTAINERS

- 3.1.1.1 The Contractor shall provide the number of DOT approved containers, lids, red bag liners, bar codes and manifests needed at each location as assessed by the departmental coordinator for that location. These containers will generally be the Contractor's standard 23-gallon corrugated box but may vary according to Contractor/supplier.

3.1.2 SHARPS CONTAINERS

The Contractor will insure that all sharps containers will conform to the following standards:

- 3.1.2.1 United States ASTM F2132 - 01(2008)e1 Standard Specification for Puncture Resistance of Materials Used in Containers for Discarded Medical Needles and Other Sharps;
- 3.1.2.2 United States ECRI Guidelines for Sharps Containers.

4.0 DISPOSAL:

4.1 MEDICAL WASTE

- 4.1.1 The Contractor shall warrant that it shall not commingle or mix medical waste with any other solid waste and that it shall store and dispose of all bio-hazardous medical waste collected and transported under the provisions of this contract, safely and in a manner prescribed by law.
- 4.1.2 The Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for the performance of the Work.
- 4.1.3 The Contractor shall warrant that it is a registered transporter authorized to transport and store medical waste and that disposal shall only be at sites approved by all appropriate regulatory bodies having jurisdiction over them and as may be required by any State or Federal law, statute, rule, regulation or by City ordinance.
- 4.1.4 The Contractor shall warrant that it shall comply with all standards set by the City's Health and Human Services Department and by any other regulatory body concerning bio-hazardous medical waste and that all disposal sites receiving medical waste under the provisions of the proposed contract and shall comply with all such standards promulgated.
- 4.1.5 All medical waste disposed of by incineration shall be incinerated in Fixed-Hearth Incinerators equipped with wet or dry stack scrubbers that are operational and in use at the time of incineration or by other methods which meet or exceed all laws, statutes, rules, regulations or ordinances of all regulatory bodies having jurisdiction.
- 4.1.6 The Contractor must obtain written approval, in advance, for any disposal site it desires to use to dispose of City-generated medical wastes. Approval of the sites must be by the Director of the Health and Human Services Department. Written notification to the City must identify the proposed site by name, location and permit number.

- 4.1.7 The Contractor shall warrant that it shall not dispose of medical waste at any disposal site without written approval of City officials or which loses its permit.
- 4.1.8 Collection of the medical waste containers shall be performed during normal business hours and whenever access to restricted, enclosed areas where containers are stored by the City is available. The authorized representative of the Department requesting the first collection and disposal services shall be scheduled by the City; thereafter, by the Contractor.
- 4.1.9 The Contractor shall provide emergency pickup within 24 hours of notice from the department Director/designee.
- 4.1.10 The Contractor shall provide an annual calendar of pick-up schedules to each department.
- 4.1.11 The Contractor shall document the collection, storage, transportation and disposal of all medical waste containers in accordance with all requirements of all regulatory bodies. A manifest or other appropriate documentation may be used to record all activities associated with the containers in such a manner as to allow the City to be aware of the whereabouts of all containers from the time of collection to the time of disposal and to identify all containers of medical waste generated by the City. The Contractor shall obtain any and all information needed by the City to comply with all regulatory reporting requirements and to verify disposal of all full containers. As a minimum, documentation shall include:
- 4.1.11.1 Record of receipt of collection containing identification of the City facility generating the medical waste, transporter's name, address, telephone number, registration numbers, date of collection, listings of container number and weight of each container.
 - 4.1.11.2 Record of receipt of each medical waste container at the facility for storage of such wastes, providing the name, address and telephone number of the storage facility and the medical waste container number, date of receipt, date of release and the name, address and telephone number of the transporter it was released to.
 - 4.1.11.3 Record of receipt of each medical waste container at the facility for disposal of such wastes, providing the name, address, telephone number and permit number of the disposal facility plus evidence of receipt of each container, container number, date of receipt and weight of each container.
 - 4.1.11.4 The Contractor in support of its itemized invoice as provided by the Contract shall provide all such records for the collection, storage and disposal of medical waste.
 - 4.1.11.5 The contractor shall comply with the latest edition of the Texas Department of Agriculture (TDA) Weights and Measures Program. All Public Weigher equipment and licenses shall be current on certificates of registration and approved by TDA during the terms under this contract. Contractor shall keep all certificates of registration and history to be made available upon request at the location where the device(s) is registered.
 - 4.1.11.6 If the Contractor stores the medical waste containers it collects from the City between the time Contractor collects the containers and the time it disposes of them, it shall provide a copy of any permit required for operation of such a storage facility. The Contractor shall warrant that it shall store such containers and operate such a storage facility as required by any regulatory body having jurisdiction. The Contractor shall also warrant that it shall protect and safeguard all such containers from loss or theft or any unauthorized removal of the containers from the storage facility. In the event that such containers become lost, misplaced, stolen or removed without authorization from the owners of the storage facility then the Contractor shall immediately notify the City.
 - 4.1.11.7 The Contractor shall provide, in advance of its use, maps, showing the transportation routes from the City's waste locations listed in Attachment "A" to all Storage and Disposal Sites proposed for use by the Contractor. The approximate time and distance for each route shall also be provided. The City shall approve, in writing, all

proposed haul routes prior to their use by the Contractor.

4.1.11.8 The Contractor shall warrant that all vehicles used to transport the City's medical waste meet or exceed the operating standards set by any regulatory agencies with authority over it. All such vehicles used by the Contractor in the performance of this contract shall be equipped, as a minimum, with:

4.1.11.8.1 Valid license plate registrations and plates.

4.1.11.8.2 Valid inspection stickers.

4.1.11.8.3 Valid registrations with the Texas Department of Health and any other regulatory agency with jurisdiction over vehicles used in transporting medical waste.

4.1.11.8.3.1 Prominent bio-hazard markings on the vehicles and all other markings required by regulatory agencies having jurisdiction.

4.1.11.8.3.2 Completely enclosed cargo sides, bottom and top panels constructed of fiberglass or metal with sealed seams to prevent leakage and access to its contents.

4.1.11.8.4 Emergency Spill Kits.

4.1.11.8.5 Doors, tailgates and other access points that are lockable. All access points are to remain locked at all times except when loading or unloading medical waste.

4.1.11.8.6 A copy of the Contractor's Emergency Spill Plan.

5.0 SPILLS/EMERGENCIES:

5.1 Contractor shall, at Contractor's sole cost and expense, assume responsibility for and respond, in accordance with all Applicable Laws, to any and all leaks, spills, and other emergencies caused by Contractor in connection with performance of the Covered Services.

5.2 Contractor shall provide appropriately trained personnel and equipment necessary to respond immediately to any accidental spills or excessive vehicle fluid leaks (radiator fluid, transmission fluid, engine oil, diesel fuel, etc.) caused by one of its vehicles on any City property listed in Exhibit "BB". The Contractor must also immediately notify the General Services Department superintendent at 713-308-3908 so that immediate action may be taken to safeguard any persons, property or storm drains threatened by any such spills or leaks.

6.0 TRAINING:

6.1 The Contractor shall provide, at no cost to the City, safety orientation and training to all City employees who are involved in the collection, storage, transportation or disposal of any of the medical waste products disposed of by the City of Houston. Such training may include online training.

6.2 Both the EPA Resource Conservation and Recovery Act (RCRA) and US Department of Transportation regulatory have requirements for identification, handling, storage, documentation, transport and disposal of hazardous pharmaceutical waste/materials. The Contractor shall assist the City with compliance with applicable RCRA regulatory training requirements through a combination of:

6.2.1 On-site training

6.2.2 Training materials

- 6.3 Per RCRA regulations, training materials address job-specific responsibilities with regards to hazardous pharmaceutical waste for both clinicians (pharmacists, pharmacy-techs, nurses) and environmental services personnel. The City's Health Department employs a number of nurses who are subject to this training.

7.0 INVOICING:

- 7.1 The City of Houston is a single entity for accounting, billing, and discounting. Any invoices accompanied by detailed supplements and other backup documents are to be submitted by department.
- 7.2 Contractor will submit an invoice the first part of each month accompanied by a copy of associated medical waste manifests. A copy of all completed work orders for the preceeding month will be submitted with the invoice. Only services provided and work orders completed in its entirety through destruction can be billed. Discrepancies (if any) shall be discussed and resolved prior to payment
- 7.3 The City reserves the right to review all payments made to a contractor by auditing at a later date. Subject to such audit, any overpayment may be recovered from the contractor. The City of Houston requires timely and accurate accounting and billing information. All charges must be documented.
- 7.4 Invoices submitted for services performed as the result of Change Order require a copy of the applicable Change Order attached to the original invoice.
- 7.5 **Invoices shall reflect the following information:**
- 7.5.1 Agreement name and number
 - 7.5.2 Name of Person requesting service.
 - 7.5.3 Date and Time of call out.
 - 7.5.4 Unit number or license plate (when cleaning equipment or fluid spills)
 - 7.5.5 Location and description of work performed.
 - 7.5.6 Invoice amount.

HFD Invoicing Address:

Houston Fire Department
Attn: Accounts Payable
PO Box 3625
Houston, TX 77253

General Services Division Invoicing Address:

General Services Department
P.O. 61189
Houston, Texas 77208-1189
Attn. Accounts Payable

- 7.5 The Houston Airport System will accept invoices submitted electronically along with required support information. Multiple invoices can be submitted in a single email Requirements are as follows:
- 7.5.1 Each invoice must be in TIFF format.
 - 7.5.2 Submit to: has.accountspayable@houstontx.gov
 - 7.5.3 **HAS Invoicing Address:**
City of Houston
Department of Aviation
Accounts Payable
PO Box 60106
Houston, TX 77205 – 0106
has.accountspayable@cityofhouston.net

8.0 HOUSTON AIRPORT SYSTEM SPECIAL PROVISIONS:

- 8.1 The Contractor shall comply with all applicable Federal rules governing security at the Airports, as may be amended, from time to time.
- 8.2 All Contractor on-site personnel, including subcontractors, are required to undergo a fingerprint-based criminal history records check. Fingerprints shall be collected at the Airport badging office.
- 8.3 The Contractor shall obtain HAS security badges for all personnel performing services on-site, including subcontractor's personnel. The cost of badges, which is subject to change, is currently \$55.00 each at

George Bush Intercontinental (IAH) and William P. Hobby (HOU). Costs for the finger print-based criminal history records check are reflected in the cost of the badges. Contractor is responsible for the cost of the badges, including replacement thereof. The personnel losing badges shall be charged for replacement badges at the then-current rate. Each badge is valid for one year and renewable at the prevailing cost. The current renewal cost per badge is \$16.00.

- 8.4 All transportation activities of the Contractor and/or its subcontractors necessary to perform the duties and responsibilities of this Scope of Services shall be paid for and provided by the Contractor.
- 8.5 Contractor shall provide an updated Certificate of Insurance annually to the Houston Airport System, Supply Chain Management Division, 18600 Lee Road, Humble, TX 77338.

9.0 HOUSTON DEPARTMENT OF HEALTH & HUMAN SERVICES (HHS) SPECIAL PROVISIONS:

- 9.1 The Houston Department of Health and Human Services (HDHHS) requires the annual disposal of approximately 1000 pounds of damaged and/or expired drugs from the department's Pharmacy. Included in this amount are about 20 pounds of drugs which are subject to DEA rules and regulations.
- 9.2 The Contractor shall dispose of the HDHHS controlled substances under the supervision of an HDHHS pharmacy staff member employed by the City of Houston for the following Schedule IV drugs:
 - 9.2.1 Alprazolam
 - 9.2.2 Chlordiazepoxide
 - 9.2.3 Diazepam Injection
 - 9.2.4 Lorazepam Injection
 - 9.2.5 Phenobarbital
- 9.3 Such substances must not be allowed into the public domain as they may be subject to abuse. The controlled drugs shall be disposed of by high temperature incineration.
- 9.4 The Contractor shall comply with the following the minimum criteria in the disposal of these controlled drugs:
 - 9.4.1 The incinerator location must be approved by the Environment Protection Agency (EPA)
 - 9.4.2 The incinerator facility must have adequate security while this destruction process is in progress.
 - 9.4.3 The incinerator must have the capability to handle solid and liquid substances.
 - 9.4.4 Prior to award of the Contract, the proposed incinerator facility shall be inspected and approved by representatives from the HDHHS.
- 9.5 HDHHS shall keep a complete record of all drugs disposed of, showing the exact kinds, quantities and forms of such drugs; the Contractor's agent/designee who received the drugs and the dates of receipt, disposal or destruction; which record shall be open to inspection by all federal and state officers charged with enforcement of federal and state narcotic laws.
- 9.6 The Contractor is responsible to for keeping copies of all manifests for the City of Houston and three years after the expiration date of the contract. Such record shall be open to inspection by all federal and state officers charged with enforcement of federal and state narcotic laws.

10.0 HOUSTON FIRE DEPARTMENT SPECIAL PROVISIONS:

- 10.1 The Contractor shall dispose of the following Houston Fire Department's controlled substances under the supervision of an HFD fireman employed by the City of Houston for the following Schedule II and IV drugs:
 - 10.1.1 Fentanyl;
 - 10.1.2 Diazepam;
 - 10.1.3 Midazolam

- 10.2 The Contractor shall comply with the following the minimum criteria in the disposal of these controlled drugs:
- 10.2.1 The incinerator location must be approved by the Environment Protection Agency (EPA)
 - 10.2.2 The incinerator facility must have adequate security while this destruction process is in progress.
 - 10.2.3 The incinerator must have the capability to handle solid and liquid substances.
 - 10.2.4 Prior to award of the Contract, the proposed incinerator facility shall be inspected and approved by representatives from the HFD.
- 10.3 HFD shall keep a complete record of all drugs disposed of, showing the exact kinds, quantities and forms of such drugs; the Contractor's agent/designee who received the drugs and the dates of receipt, disposal or destruction; which record shall be open to inspection by all federal and state officers charged with enforcement of federal and state narcotic laws.
- 10.4 The Contractor is responsible to for keeping copies of all manifests for the City of Houston and three years after the expiration date of the contract. Such record shall be open to inspection by all federal and state officers charged with enforcement of federal and state narcotic laws.

11.0 PUBLIC RELATIONS:

- 11.1 The Contractor agrees that neither it nor its agent, subcontractors or employees shall issue or make any statements on behalf of the City with respect to any incident occurring at the Airport or at any City facility, except when requested to do so by the Director.

12.0 ADDITIONS & DELETIONS:

- 12.1 The City, by written notice from the City Purchasing Agent to the Contractor, at any time during the term of this contract, may add or delete like or similar equipment, supplies, locations and/or services to the list of equipment, supplies, locations, and/or services to be provided. Any such written notice shall take effect on the date stated in the notice from the City. Similar equipment, supplies, services, or locations added to the contract shall be in accordance with the contract specification/scope of services, and the charges or rates for items added shall be the same as specified in the fee schedule. In the event that the additional equipment, supplies, locations and/or services are not identical to the item(s) already under contract, the charges therefore will then be the Contractor's normal and customary charges or rates for the equipment, supplies, locations and/or services classified in the fee schedule.

13.0 INTERLOCAL AGREEMENT:

- 13.1 Under the same terms and conditions hereunder, the Contract may be expanded to other government entities through inter-local agreements between the City of Houston and the respective government entity that encompass all or part of the products/services provided under this contract. Separate contracts will be drawn to reflect the needs of each participating entity.

14.0 ESTIMATED QUANTITIES NOT GUARANTEED

- 14.1 The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of medical waste removal and disposal services during the term of this contract. The quantities may vary depending upon the actual needs of the user Department. The quantities specified herein are good faith estimates of usage during the term of this contract. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City purchasing/requiring all the quantities specified herein.

15.0 WARRANTY OF SERVICES

- 15.1 *Definitions:* "Acceptance" as used in this clause, means the act of an authorized representative of the City by which the City assumes for itself, approval of specific services as partial or complete performance of the contract.

“Correction” as used in this clause, means the elimination of a defect.

- 15.2 Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Contractor within a one-year period from the date of acceptance by the City. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.
- 15.3 If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.
- 15.4 If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

EXHIBIT "BB"

MEDICAL WASTE REMOVAL SITES

A. HEALTH AND HUMAN SERVICES DEPARTMENT (Send invoice to General Services Department)

LOCATIONS	ADDRESS	PICK-UP
1. Acres Home WIC	6719 W. MONTGOMERY	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
2. Airline WIC	5990 AIRLINE DR. STE. 200	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
3. Aldine WIC	5198 ALD1NE MAIL ROUTE	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
4. Alief WIC	12660 BEECHNUT #180	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
5. Braesner WIC	8832 SOUTH BRAESWOOD	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
6. Central Health Headquarters	8000 N. STADIUM DR.	1ST & 3RD Wednesday Each Month
7. Denver Harbor Wic	6402 MARKET ST.	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
8. La Nueva Casa De Amigos	1809 NORTH MAIN	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
9. Laboratory	1115 S. BRAESWOOD	Monday Weekly 9:00A-10:00A
10. Magnolia Health Center/WIC	7037 CAPITOL	Monday Weekly 11:30A-1:30P
11. Northeast WIC	9720SPALDING	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
12. Northside HC/WIC/ChestClinic	8502 SCHULLER	Monday Weekly 12:30P-1:30P
13. Northwest WIC	8536 HAMMERLY	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
14. Sharpstown Health Center	6201 BONHOMME STE. 300	Thursday Weekly 8A-5P
15. Southwest WIC	6400 HIGH STAR	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.
16. Sunnyside Health Center	9314 CULLEN	Monday Weekly 9:00A-11:30A
17. Sunnyside M.S.C./WIC	4605 WILMINGTON	Thursday Bi-Monthly 8A-5P 1ST & 3RD WK.

Pharmacies (As Needed)

1. 1115 S. Braeswood
2. 3301 Commerce

B. FIRE DEPARTMENT (Send invoice to Fire Department)

LOCATIONS	ADDRESS	PICK-UP
1. Reserve Barn-200	1205 Dart	2 WEEKS
2. Station 4	6530 West Little York	2 WEEKS
3. Station 6	3402 Washington	2 WEEKS
4. Station 8	1901 Milam	2 WEEKS
5. Station 10	6600 Corporate	2 WEEKS
6. Station 18	619 Telephone	2 WEEKS
7. Station 19	1811 Gregg	2 WEEKS
8. Station 21	10515 Main	2 WEEKS
9. Station 28	3000 Chimney Rock	2 WEEKS
10. Station 29	4831 Galveston Rd.	2 WEEKS
11. Station 31	222 Crosstimbers	2 WEEKS
12. Station 33	7100 Fannin	2 WEEKS
13. Station 34	3100 Laura Koppe	2 WEEKS
14. Station 45	4910 McCarty	4 WEEKS
15. Station 46	3902 Corder	2 WEEKS
16. Station 64	3000 Greens Rd	2 WEEKS
17. Station 69	1102 W. Belt South	4 WEEKS
18. Station 70	11410 Beamer	4 WEEKS
19. Station 71	15200 Space Center Blvd	4 WEEKS
20. Station 81	7990 Paul B. Koonce	4 WEEKS
21. Station 82	11250 Braesridge	2 WEEKS
22. Station 92	4301 Will Clayton Pkwy	4 WEEKS
23. Station 102	4102 W. Lake Houston Pkwy	2 WEEKS

C. AVIATION DEPARTMENT ***

Service Schedule is CALL-IN (Send invoice to Aviation)

- | | |
|---|--------------------------|
| 1. George W. Bush
Intercontinental Airport | 2800 North Terminal Road |
| 2. William P. Hobby Airport | 7800 Airport Boulevard |

*** Includes approximately 100 locations at Bush Intercontinental Airport, and 26 locations at Hobby Airport and for placement of Sharps containers.

D. POLICE DEPARTMENT (Send invoice to General Services Department)

Locations	Address	Service Days	Contact
1 HPD Central HQ	61 Riesner	On call	HPD
2 HPD Central Jail	61 Riesner	Weekly/Thursday	HPD
3 HPD Intox Division	51 Riesner	Weekly/Thursday	HPD
4 HPD Drying Room/3rd Floor	33 Artesian	Weekly/Thursday	HPD
5 HPD Crime Lab/26 Floor	1200 Travis	Weekly/Thursday	HPD
6 HPD Property Room	1202 Washington	Bi-weekly/Thursday	HPD
7 North Police Station	9455 W. Montgomery	On call	HPD
8 Northwest Police Station	6000 Teague	On call	HPD
9 South Central Police Station	2202 St. Emmanuel	On call	HPD
10 Southwest Police Station	4503 Beechnut	On call	HPD
11 Westside Command Station	3203 Dairy Ashford	On call	HPD
12 Clearlake Police Station	2855 Bay Area Blvd	On call	HPD
13 Police Academy	17000 Aldine Westfield	90 day box	HPD
14 East Police Station	7525 Sherman	On call	HPD
15 HPD Southeast Jail	8300 Mykawa	Weekly/Thursday	HPD
16 Southeast Patrol Division	8300 Mykawa	Weekly/Thursday	HPD
17 Kingwood Police Station	3915 Rustic Woods Dr.	On call	HPD
18 Northeast Police Station	8301 Ley Rd.	On call	HPD
19 S. Gessner Police Station	8605 Westplace Dr.	On call	HPD
20 Midwest Police Station	7277 Regency Square	On call	HPD
21 HPD Special Operations	1900 Rusk	On call	HPD
22 HPD Airport – Hobby	7800 Airport Blvd	On call	HPD
23 HPD Airport – IAH	3100 Terminal B Road	On call	HPD

**SECTION C
GENERAL TERMS & CONDITIONS**

THE STATE OF TEXAS

BID # L23790

ORDINANCE # _____

COUNTY OF HARRIS

CONTRACT # _____

I. PARTIES

1.0 ADDRESS

THIS AGREEMENT for **MEDICAL WASTE REMOVAL AND DISPOSAL SERVICES FOR VARIOUS DEPARTMENTS** ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a home-rule city of the State of Texas, and _____ ("Contractor"), a _____ corporation doing business in Texas.

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

City

City Purchasing Agent for the
General Services Department
City of Houston
P.O. 61189
Houston, Texas 77208-1189
Attn. Accounts Payable

Contractor

Phone: _____

Fax: _____

email: _____

The Parties agree as follows:

2.0 TABLE OF CONTENTS

2.1 This Agreement consists of the following sections:

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EXHIBITS

- * A. DEFINITIONS
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- * C. EQUAL EMPLOYMENT OPPORTUNITY
- * D. MWBE SUBCONTRACT TERMS
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- * G. DRUG POLICY COMPLIANCE DECLARATION
- * H. FEES AND COSTS
- * I. CITY'S CONTRACTORS PAY OR PLAY PROGRAM

* Note: These Exhibits shall be inserted into the contract Agreement at the time of contract execution.

3.0 PARTS INCORPORATED

3.1 The above described sections and exhibits are incorporated into this Agreement.

4.0 CONTROLLING PARTS

4.1 If a conflict among the sections or exhibits arises, the Exhibits control over the Sections.

5.0 DEFINITIONS

5.1 Certain terms used in this Agreement are defined in Exhibit "A."

6.0 SIGNATURES

6.1 The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST/SEAL: (if a corporation)

WITNESS: (if not corporation)

By: _____

Name:

Title:

By: _____

Name:

Title:

Federal Tax ID Number: _____

ATTEST/SEAL:

CITY OF HOUSTON, TEXAS

Signed by:

City Secretary

Mayor

APPROVED:

COUNTERSIGNED BY:

City Purchasing Agent

City Controller

DATE COUNTERSIGNED:

This contract has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

Date

Legal Assistant

II. DUTIES OF CONTRACTOR

1.0 SCOPE OF SERVICES

- 1.1 In consideration of the payments specified in this Agreement, Contractor shall provide all supervision, labor, tools, equipment, permits, parts, expendable items, material, and supplies necessary to perform the services described in Exhibit "B" & "BB."

2.0 RELEASE

- 2.1 PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE CITY) FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

3.0 INDEMNIFICATION

- 3.1 PRIME CONTRACTOR/SUPPLIER AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY "THE CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:
 - 3.1.1 PRIME CONTRACTOR/SUPPLIER AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 2.1-3.2, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
 - 3.1.2 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER ACTUAL OR ALLEGED CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND
 - 3.1.3 THE CITY'S AND PRIME CONTRACTOR/SUPPLIER ACTUAL OR ALLEGED STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.
 - 3.1.4 PRIME CONTRACTOR/SUPPLIER SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THE TERM OF THIS CONTRACT AND FOR FOUR YEARS AFTER THE CONTRACT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000.00 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.
- 3.2 CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

4.0 INDEMNIFICATION PROCEDURES

- 4.1 Notice of Claims. If the City or Prime Contractor/Supplier receives notice of any claim or circumstances, which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:
- 4.1.1 a description of the indemnification event in reasonable detail, and
 - 4.1.2 the basis on which indemnification may be due, and
 - 4.1.3 the anticipated amount of the indemnified loss.
- 4.2 This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10-day period, it does not waive any right to indemnification except to the extent that Prime Contractor/Supplier is prejudiced, suffers loss, or incurs expense because of the delay.
- 4.3 Defense of Claims
- 4.3.1 Assumption of Defense. Prime Contractor/Supplier may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Prime Contractor/Supplier shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Prime Contractor/Supplier must advise the City as to whether or not it will defend the claim. If Prime Contractor/Supplier does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.
 - 4.3.2 Continued Participation. If Prime Contractor/Supplier elects to defend the claim, the City may retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Prime Contractor/Supplier may settle the claim without the consent or Agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Prime Contractor/Supplier does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

5.0 INSURANCE

- 5.1 Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement. All policies except Professional Liability and Workers' Compensation must name the City as an additional insured. The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverage in the following amounts:
- 5.1.1 Commercial General Liability insurance including Contractual Liability insurance:
\$500,000 per occurrence; \$1,000,000 aggregate
 - 5.1.2 Workers' Compensation including Broad Form All States endorsement:
Statutory amount
 - 5.1.3 Automobile Liability insurance
\$1,000,000 combined single limit per occurrence
Defense costs are excluded from the face amount of the policy
Aggregate Limits are per 12-month policy period unless otherwise indicated

5.1.4 Employer's Liability

Bodily injury by accident	\$100,000 (each accident)
Bodily injury by disease	\$100,000 (policy limit)
Bodily injury by disease	\$100,000 (each employee)

5.1.5 Pollution Liability

\$1,000,000.00 per occurrence; \$2,000,000.00 aggregate (12-month period).

5.2 All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City. Contractor shall give 30 days written notice to the Director if any of its insurance policies are cancelled, materially changed or non-renewed. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his or sole discretion, may:

5.2.1 immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or

5.2.2 purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

6.0 **WARRANTIES**

6.1 Contractor represents and warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained and skilled persons having substantial experience performing the work required under this Agreement.

6.2 With respect to any parts and goods furnished by it, Contractor warrants:

6.2.1 that all items are free of defects in title, material, and workmanship,

6.2.2 that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure, or other improvement in which the item is installed,

6.2.3 that each replacement item is new in accordance with original equipment manufacturers specifications, and of a quality at least as good as the quality of the item which it replaces (when the replaced item was new), and

6.2.4 that no item or its use infringes any patent, copyright, or proprietary right.

7.0 **LICENSES AND PERMITS**

7.1 Contractor shall obtain and pay for all licenses, permits, and certificates required by any statute, ordinance, rule, or regulation.

8.0 **COMPLIANCE WITH EQUAL OPPORTUNITY ORDINANCE**

8.1 Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit "C."

9.0 **M/WBE COMPLIANCE**

9.1 Contractor shall comply with the City's Minority and Women Business Enterprise ("M/WBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply Agreements in at

least **12%** of the value of this Agreement to M/WBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the Mayor's Office of Business Opportunity (MOBO) and will comply with them.

- 9.2 Contractor shall require written subcontracts with all M/WBE subcontractors and shall submit all disputes with M/WBEs to binding arbitration to be conducted in Houston, Texas if directed to do so by the OBO Director. M/WBE subcontracts must contain the terms set out in Exhibit "D."

10.0 DRUG ABUSE DETECTION AND DETERRENCE

- 10.1 It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by Contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.
- 10.2 Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):
- 10.2.1 a copy of its drug-free workplace policy,
- 10.2.2 the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "E," together with a written designation of all safety impact positions, and
- 10.2.3 if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "F."
- 10.3 If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "G." Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance, and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed, or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.
- 10.4 Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee workforce.
- 10.5 Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

11.0 ENVIRONMENTAL LAWS

- 11.1 Contractor shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ"), and any other governmental agency with the authority to promulgate environmental rules and regulations ("Environmental Laws"). Contractor shall promptly reimburse the City for any fines or penalties levied against the City because of Contractor's failure to comply.
- 11.2 Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardous Materials on, under, in, above, to, or from the site except in strict compliance with the Environmental Regulations. "Hazardous Materials" means any substances, materials, or wastes that are or become regulated as hazardous or toxic

substances under any applicable federal, state, or local laws, regulations, ordinances, or orders. Contractor shall not deposit oil, gasoline, grease, lubricants or any ignitable or hazardous liquids, materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

12.0 CITY'S CONTRACTOR PAY OR PLAY PROGRAM

- 12.1 The requirement and terms of the City of Houston Pay or Play Policy, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.
- 12.2 The Pay or Play Program for various departments will be administered by the City of Houston Office of Business Opportunity designee and for a Department specific contract; the Department's designated contract administrator will administer the Pay or Play Program.

13.0 CONTRACTOR'S PERFORMANCE

- 13.1 Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of service to the public. If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards.

14.0 PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

- 14.1 Contractor shall make timely payments in accordance with applicable state and federal law to all persons and entities supplying labor, materials or equipment for the performance of this Agreement including Contractor's employees.
- 14.2 Failure of Contractor to pay its employees as required by law shall constitute a default under this contract for which the Contractor and its surety shall be liable on Contractor's performance bond if Contractor fails to cure the default as provided under this Agreement.
- 14.3 Contractor shall defend and indemnify the City from any claims or liability arising out of Contractor's failure to pay its subcontractors as required by law. Contractor shall submit disputes relating to payment of M/WBE subcontractors to arbitration in the same manner as any other disputes under the M/WBE subcontract.

III. DUTIES OF CITY

1.0 PAYMENT TERMS

- 1.1 The City shall pay and Contractor shall accept fees provided in Exhibit "H" for all services rendered and the Deliverables furnished by Contractor. The fees must only be paid from Allocated Funds, as provided below.

2.0 TAXES

- 2.1 The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal

tax identification number to Contractor if requested.

3.0 METHOD OF PAYMENT

- 3.1 The City shall pay Contractor on the basis of invoices submitted by Contractor and approved by the Director, showing the specific tasks completed in the preceding month and the corresponding prices. The City shall make payments to Contractor at its address for notices within 30 days upon receipt of an approved invoice.

4.0 METHOD OF PAYMENT - DISPUTED PAYMENTS

- 4.1 If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

5.0 LIMIT OF APPROPRIATION:

- 5.1 The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.
- 5.2 In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$_____ to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:
- 5.3 The City makes a Supplemental Allocation by issuing to Contractor a Service Release Order, or similar form approved by the City Controller, containing the language set out below. When necessary, the Supplemental Allocation shall be approved by motion or ordinance of City Council.

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

"By the signature below, the City Controller certifies that, upon the request of the responsible Director, the supplemental sum set out below has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation."

- 5.4 The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement and it has no other remedy in law or in equity against the City and no right to damages of any kind.

6.0 CHANGES

- 6.1 At any time during the Agreement Term, the City Purchasing Agent or Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement. Contractor shall furnish the services or deliverables in the Change Order in

accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

- 6.2 The City Purchasing Agent or Director will issue the Change Order in substantially the following form:

CHANGE ORDER

TO: [Name of Contractor]
FROM: City of Houston, Texas (the "City")
DATE: [Date of Notice]
SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]

Signed:

[Signature of City Purchasing Agent or Director]

- 6.3 The City Purchasing Agent or Director may issue more than one Change Order, subject to the following limitations:
- 6.3.1 Council expressly authorizes the City Purchasing Agent or Director to approve a Change Order of up to \$50,000. A Change Order of more than \$50,000 over the approved contract amount must be approved by the City Council.
 - 6.3.2 If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.
 - 6.3.3 The total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.
- 6.4 Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The City Purchasing Agent's or Director's decision regarding a time extension is final.
- 6.5 A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.
- 6.6 Change Orders are subject to the Allocated Funds provisions of this Agreement.

IV. TERM AND TERMINATION

1.0 CONTRACT TERM

- 1.1 This Agreement is effective on the Countersignature Date and expires five (5) years after the starting date specified in the Notice to Proceed unless sooner terminated according to the terms of this Agreement.

2.0 NOTICE TO PROCEED

- 2.1 Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed from the City Purchasing Agent.

3.0 TIME EXTENSIONS

- 3.1 If Department requests an extension of time to complete its performance, then the City Purchasing Agent may, in his or her sole discretion, extend the time so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

4.0 TERMINATION FOR CONVENIENCE BY THE CITY

- 4.1 The City Purchasing Agent or Director may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies, which exist now or in the future.
- 4.2 On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section III unless the fees exceed the allocated funds remaining under this Agreement.
- 4.3 TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

5.0 TERMINATION FOR CAUSE BY CITY

- 5.1 If Contractor defaults under this Agreement, the City Purchasing Agent or Director may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies, which exist now or in the future. Default by Contractor occurs if:
- 5.1.1 Contractor fails to perform any of its duties under this Agreement;
 - 5.1.2 Contractor becomes insolvent;
 - 5.1.3 All or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

6.0 TERMINATION FOR CAUSE BY CITY

- 6.1 If Contractor defaults under this Agreement, the City Purchasing Agent or Director may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies, which exist now or in the future. Default by Contractor occurs if:
 - 6.1.1 Contractor fails to perform any of its duties under this Agreement;
 - 6.1.2 Contractor becomes insolvent;
 - 6.1.3 All or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or
 - 6.1.4 A receiver or trustee is appointed for Contractor.
- 6.2 If a default occurs, the City Purchasing Agent or Director may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The City Purchasing Agent or Director, at his or her sole option, may extend the termination date to a later date. If the City Purchasing Agent or Director allows Contractor to cure the default and Contractor does so to the City Purchasing Agent's or Director's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the City Purchasing Agent or Director may terminate this Agreement on the termination date, at no further obligation of the City.
- 6.3 To effect final termination, the City Purchasing Agent or Director must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

7.0 TERMINATION FOR CAUSE BY CONTRACTOR

- 7.1 Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date.
- 7.2 The date must be at least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

8.0 REMOVAL OF CONTRACTOR OWNED EQUIPMENT AND MATERIALS

- 8.1 Upon expiration, or termination of this Agreement, Contractor is permitted ten (10) days within which to remove contractor-owned material and equipment from the City's premises. The City shall make such material and equipment readily available to Contractor. The time period may be extended upon approval by the Director. The City reserves the right to deny any extension of time.

V. MISCELLANEOUS

1.0 INDEPENDENT CONTRACTOR

- 1.1 Contractor shall perform its obligations under this Agreement as an independent Contractor and not as an employee of the City.

2.0 FORCE MAJEURE

- 2.1 Timely performance by both parties is essential to this Agreement. However, neither party is liable for delays or other failures to perform its obligations under this Agreement to the extent the delay or failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.
- 2.2 This relief is not applicable unless the affected party does the following:
- 2.2.1 uses due diligence to remove the Force Majeure as quickly as possible, and
- 2.2.2 provides the other party with prompt written notice of the cause and its anticipated effect.
- 2.3 The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance does not constitute a default or breach of this Agreement by the City.
- 2.4 If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director may terminate this Agreement by giving 30 days written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.**

3.0 SEVERABILITY

- 3.1 If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

4.0 ENTIRE AGREEMENT

- 4.1 This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding this Agreement.

5.0 WRITTEN AMENDMENT

- 5.1 Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance duly adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

6.0 APPLICABLE LAWS

- 6.1 This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.
- 6.2 Venue for any litigation relating to this Agreement is Harris County, Texas.

7.0 NOTICES

- 7.1 All notices to either party to the Agreement must be in writing and must be delivered by hand, facsimile, United States registered or certified mail, return receipt requested, United States Express Mail, Federal Express, Airborne Express, UPS or any other national overnight express delivery service. The notice must be addressed to the party to whom the notice is given at its address set out in Section I of this Agreement or other address the receiving party has designated previously by proper notice to the sending party. Postage or delivery charges must be paid by the party giving the notice.

8.0 NON-WAIVER

- 8.1 If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.
- 8.2 An approval by the Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The Director is not authorized to vary the terms of this Agreement.

9.0 INSPECTIONS AND AUDITS

- 9.1 City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least 4 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

10.0 ENFORCEMENT

- 10.1 The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

11.0 AMBIGUITIES

- 11.1 If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

12.0 SURVIVAL

- 12.1 Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

13.0 PARTIES IN INTEREST

- 13.1 This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

14.0 SUCCESSORS AND ASSIGNS

- 14.1 This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

15.0 BUSINESS STRUCTURE AND ASSIGNMENTS

- 15.1 Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the City Purchasing Agent's or Director's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406(c) of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.
- 15.2 Contractor shall not delegate any portion of its performance under this Agreement without the City Purchasing Agent's or Director's prior written consent.

16.0 REMEDIES CUMULATIVE

- 16.1 Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

17.0 CONTRACTOR DEBT

- 17.1 If Contractor, at any time during the term of this Agreement, incurs a debt, as the word is defined in Section 15-122 of the Houston City Code of Ordinances, it shall immediately notify the City Controller in writing. If the City Controller becomes aware that Contractor has incurred a debt, she shall immediately notify Contractor in writing. If Contractor does not pay the debt within 30 days of either such notification, the City Controller may deduct funds in an amount equal to the debt from any payments owed to Contractor under this Agreement, and Contractor waives any recourse therefore.

EXHIBIT A [DEFINITIONS]

As used in this Agreement, the following terms have the meanings set out below:

"Agreement" means this contract between the Parties, including all exhibits, change orders, and any written amendments authorized by City Council and Contractor.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"City Purchasing Agent" is defined as the person or duly authorized successor, authorized in writing to act for the City. The term includes, except as otherwise provided in this Contract, the authorized representative of the City Purchasing Agent acting within the limits of delegated authority.

"CDC" means the U.S. Government Center for Disease Control and Prevention located in Atlanta, GA.

"Contract Award Notice" means the official notification substantiated by the Notice to Proceed issued by the City Purchasing Agent to the Contractor.

"Contract Charges" means charges that accrue during a given month as defined in Article III.

"Contract Term" is defined in Article IV.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date this Agreement is countersigned by the City Controller.

"Director" means the Directors/Chiefs of each of the Departments or the City Purchasing Agent for the City, or the person he or she designates.

"DOT" means the United States Department of Transportation or any successor agency thereto performing in whole or part of the statutory duties and responsibilities performed by DOT on the effective date of this Agreement.

"Effective Date" is defined as date contract is countersigned by the City Controller.

"EPA" means the United States Environmental Protection Agency or any successor agency thereto performing in whole or part of the statutory duties and responsibilities performed by EPA on the effective date of this Agreement.

"Governing Body" means the Mayor and City Council of the City of Houston.

"Hazardous Materials" is defined in Article II (Environmental Laws).

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996. The Privacy Rule standards address the use and disclosure of individuals' health information.

"Medical waste" means the definition codified in 25 TAG §1.132 or any successor regulation, and currently includes special waste from health care-related facilities, bulk blood, bulk human blood products, or bulk human body fluids; animal waste; microbiological waste; pathological waste; or sharps.

"NIOSH" means the National Institute for Occupational Safety and Health, an organizational component of the CDC.

"Notice to Proceed" means a written communication from the City Purchasing Agent to Contractor instructing Contractor to begin performance.

"OSHA" means the Occupational Safety and Health Administration or any successor agency thereto performing in whole or part of the statutory duties and responsibility performed by the OSHA on the effective date of this Agreement.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

"TCEQ" means the Texas Commission on Environmental Quality, the lead environmental agency for the State of Texas.

"TXDOT" means the Texas Department of Transportation.

"TDSHS" means the Texas Department of State Health Services.

EXHIBIT B
SCOPE OF SERVICES

(To be inserted by the City at the time of contract execution)

**EXHIBIT BB
LOCATION LIST**

EXHIBIT C
[EQUAL EMPLOYMENT OPPORTUNITY]

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT D
[M/WBE SUBCONTRACT TERMS]

(To be inserted by the City at the time of contract execution)

EXHIBIT E
[DRUG POLICY COMPLIANCE AGREEMENT]

(To be inserted by the City at the time of contract execution)

EXHIBIT F
[CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS
IN PERFORMANCE OF A CITY CONTRACT]

I, _____
(Name - Print/Type) **(Title)**

as an owner or officer of _____ (Contractor)
have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has no
employee safety impact positions as defined in §5.18 of Executive Order No. 1-31 that will be involved in
performing this City Contract. Contractor agrees and covenants that it shall immediately notify the City's
Director of Personnel if any safety impact positions are established to provide services in performing this
City Contract.

Date

Contractor Name

Signature

Title

CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF
CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES
FOR CONTRACTORS

I, _____
(Name - Print/Type)

as an owner or officer of _____ (Contractor)
have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer
than fifteen (15) employees during any 20-week period during a calendar year and also certify that
Contractor has no employee safety impact positions as defined in §5.18 of Executive Order No. 1-31 that
will be involved in performing this City Contract. Safety impact position means a Contractor's employment
position involving job duties that if performed with inattentiveness, errors in judgment, or diminished
coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent
threat to the personal health or safety of the employee, co-workers, and/or the public.

Date

Contractor Name

Signature

Title

EXHIBIT G
[DRUG POLICY COMPLIANCE DECLARATION]

(To be inserted by the City at the time of contract execution)

EXHIBIT H
[FEES AND COSTS]

(To be inserted by the City at the time of contract execution)

EXHIBIT I
[PAY OR PLAY]

(To be inserted by the City at the time of contract execution)